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Attorneys for Defendants

**UNITED STATES DISTRICT COURT  
THE DISTRICT OF NEW JERSEY**

DARLERY FRANCO, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

CONNECTICUT GENERAL LIFE INSURANCE  
CO., CIGNA CORPORATION, and CIGNA  
HEALTH CORPORATION,

Defendants.

*Document Electronically Filed*

Case No. 07-6039 (FSH) (PS)

**NOTICE OF MOTION TO DISMISS  
PLAINTIFF'S SECOND AMENDED  
COMPLAINT**

**TO:** Barry M. Epstein, Esq.  
Barbara G. Quackenbos, Esq.  
Wilentz, Goldman & Sptizer P.A.  
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Suite 900 Box 10  
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Counsel for Plaintiff Darlery Franco

**PLEASE TAKE NOTICE** that, pursuant to the briefing schedule set forth in the Court's Order of December 16, 2008 (docket number 130), on Monday, March 16, 2009, or as soon as counsel may be heard, defendants Connecticut General Life Insurance Company, CIGNA Corporation, and CIGNA Health Corporation (the "CIGNA Defendants"), by and through their attorneys, Gibbons P.C. and Kirkland & Ellis LLP, shall move before the Honorable Faith S. Hochberg, U.S.D.J., United States District Court for the District of New Jersey, United States Post Office and Courthouse Building, Room 399, Newark, New Jersey, for an Order pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure dismissing the RICO and declaratory judgment claims in the Second Amended Complaint filed by Plaintiff Darlery Franco.

**PLEASE TAKE FURTHER NOTICE** that the CIGNA Defendants shall rely on the Memorandum of Law submitted in support of this Motion and all other papers of record.

**PLEASE TAKE FURTHER NOTICE** that a Certification attesting to the date and manner of service of these moving papers is also submitted herewith.

**PLEASE TAKE FURTHER NOTICE** that a proposed form of Order is submitted herewith.

**PLEASE TAKE FURTHER NOTICE** that oral argument is requested in the event there is opposition to this Motion.

Dated: January 15, 2009

BY: s/Brian J. McMahon

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